

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
September 2, 2010

In the Matter of T. M. JEROME, Minor.

No. 294838
Oakland Circuit Court
Family Division
LC No. 08-750244-NA

Before: WILDER, P.J., AND CAVANAGH AND SAAD, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(g) and (j). We affirm.

Respondent first claims that the evidence failed to establish a statutory ground for termination. We disagree. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993), citing *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). We review the trial court's determination for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(K).

Petitioner sought termination of respondent's parental rights under MCL 712A.19b(3)(g), which provides for termination where the parent failed to provide proper care or custody for the child and there was no reasonable expectation that she would be able to do so within a reasonable time considering the child's age, and (j), which provides for termination where "[t]here is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent." We find that the evidence clearly and convincingly supported these grounds for termination.¹ *Jackson*, 199 Mich App at 25.

¹ We note that the trial court erred in failing to articulate a statutory basis for the termination order as required by MCR 3.977(H) [now MCR 3.977(I)]. However, where the record, as here, (continued...)

The almost 14-year-old child's testimony generally portrayed a neglectful and harmful home environment. He regularly lacked proper supervision and care due to respondent's incoherency from her ongoing prescription drug misuse, he was subjected to physically and verbally abusive conduct by respondent, he was in respondent's vehicle while she drove under the influence in a clearly unsafe manner, she had people in the home who the child observed using drugs, and she provided the child with medication that could have been physically damaging to him. Although respondent generally denied any neglectful and abusive conduct on her part, the court found the child's testimony to be credible, consistent, and truthful. We must give regard to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it, MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989), and find the trial court's credibility determination to be reasonable, especially in light of corroborating testimony by witnesses indicating that the child had reported similar accounts of respondent's abusive and neglectful conduct to them, which they found to be truthful. Testimony also revealed a lack of any positive change in respondent's home environment over a substantial period of time (the child was first removed from her care in 2004), a failure on respondent's part to benefit from services, and respondent's poor prognosis for improving her parenting ability as indicated by her psychological evaluation. Clearly, the record sufficiently established a reasonable likelihood, based on respondent's conduct or capacity, that the child would be harmed if returned to her home, to support termination under MCL 712A.19b(3)(j), and that she would not be reasonably likely to provide proper care and custody for the child within a reasonable time, especially considering his older age and need for permanency, to support termination under MCL 712A.19b(3)(g). *Jackson*, 199 Mich App at 25.

Respondent next claims that the court erred in its determination that termination of her parental rights was in the child's best interests. MCL 712A.19b(5). We disagree. Considering respondent's past abusive and neglectful conduct, her poor prognosis to improve her parenting ability, the child's clear and strong desire not to return to her care, and the opinions by the evaluating psychologist and the caseworker recommending termination in light of the child's need for permanency and security, the record clearly established that termination of her parental rights was in the child's best interests. Under such circumstances, it would be unfair to delay the child's permanency any longer, despite respondent's love for him and her expressed desire to work toward reunification.

(...continued)

suggests that the court was aware of the issues and correctly applied the law, and the evidence clearly and convincingly supported the statutory grounds for termination sought by petitioner, any error in the court's order was harmless and does not warrant reversal. MCR 2.613(A) (a trial court's error in issuing a ruling or order is not grounds for this Court to reverse or otherwise disturb the judgment or order, unless this Court believes failure to do so would be inconsistent with substantial justice). Here, substantial justice is served by affirming the court's decision, despite the court's failure to articulate the statutory grounds for termination in its termination order.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Mark J. Cavanagh
/s/ Henry William Saad